



**ARRANGEMENTS  
FOR RESPONDING TO THE  
COMMUNITY RIGHT  
TO CHALLENGE**

## **Introduction**

This document sets out the County Council's approach to the Community Right to Challenge (CRTC) under the Localism Act 2011 in the context of The County Council's approach to securing the best achievable outcomes and value for money for the community of West Sussex.

The County Council works with individuals, community groups, staff and partners to provide choice, to support community-led initiatives and to provide opportunities and already:

- operates an Active Communities Policy, which enables communities to judge how their needs are best met locally and offers opportunities for communities to be involved with or take control of service development or delivery in their area;
- operates a Staff Mutuals Policy, which enables employees of the County Council to establish staff enterprises able to provide services for or to the County Council.

## **Background**

The Localism Act 2011 introduced a new "Community Right to Challenge", which enables the following groups to express an interest in providing or assisting with the provision of a service on behalf of the County Council:

- Charities
- Voluntary groups
- Parish and town councils
- Two or more employees of the Council

If a challenge meets prescribed criteria and is accepted, it triggers a procurement process for that service in accordance with relevant public procurement rules and the Council's Standing Orders on Procurement & Contracts. Further information on the statutory basis of the right to challenge can be found at: <https://www.gov.uk/community-right-to-challenge>.

A diagram summarising the process as described by the Department for Communities & Local Government is set out in [Annex 1](#).

## **Policy**

### **1. Working with local partners**

1.1. The County Council will continue to work with local partners and support the voluntary and community sector and other local (parish and town) councils to develop local capacity and seek to improve the social, environmental and economic wellbeing of the county.

### **2. New Ways of Providing Services**

2.1. The County Council will welcome new ideas and challenges where they are likely to improve service outcomes and/or value for money. As the County Council develops its role as a strategic commissioner and enabler of services, it will seek early and meaningful engagement with its stakeholders in the design of services, development of markets, and consideration of different ways to deliver services. The Council will work as effectively as possible through existing routes for constructive and positive dialogue to strengthen existing ways of working and relationships with the voluntary & community sector, small and medium enterprises, and staff/staff groups.

### **3. Finding Out About Opportunities with the County Council**

3.1. Information on opportunities for engagement in service delivery and the Council's commissioning processes will be published through a variety of means, all of which will be available through the Council's website. These include:

- Through representative bodies such as the West Sussex Voluntary Sector Consortium;
- Formal public consultations;
- Forward Plan entries;
- Contracts database;
- Tendering 'Opportunities Listings';
- Information provided by/through County Councillors.

3.2. Organisations or individuals who may be interested in providing services on behalf of the County Council may identify opportunities and /or contact the Council through any of these avenues.

### **4. Approach to the Community Right to Challenge**

4.1. The County Council will continue to engage, listen and work with others to ensure the best outcomes for West Sussex communities are met.

4.2. The County Council will give full consideration to expressions of interest received and will only apply transparent, objective and rational tests in such consideration. These will be informed by the principle that the proposal should not create disproportionate cost to the Council, disruption to services or the published objectives of the Council.

4.3. The Right to Challenge is a formal process that requires specific information and evidence and other criteria prescribed nationally in Regulations and Statutory Guidance. All challenges considered under this policy shall comply with these provisions. The County Council is required to and will seek to respond in accordance with the same prescribed provisions and within clearly set timeframes set out below in 6.3.

- 4.4. The County Council will publish information on the detailed procedures that will apply, including the information required in an expression of interest and applicable timeframes, for those wishing to express an interest and how the expression of interest will be considered. These will be available on the County Council’s website.
- 4.5. The County Council reserves the right to reject a challenge if it does not satisfy the prescribed legal and formal requirements for an expression of interest. The County Council will provide reasonable assistance to any person or body to ensure that the formal requirements can be met.
- 4.6. The information published will make it clear that all expressions of interest will be dealt with in accordance with the appropriate rules and this policy and that expressions of interest will not automatically lead to the award of contracts except through a subsequent procurement exercise.

**5. Challenges from Employees**

- 5.1. The County Council is committed to supporting its staff and empowering them to pursue improved outcomes and best value for residents and communities of West Sussex. Employees expressing an interest under the Right to Challenge will be treated fairly in accordance with this policy and the Council’s existing Staff Mutuals Policy.

**6. Timeframes for Expressions of Interest**

- 6.1. Due to the different legal bases, contract periods, and cost structures for in-house and contracted-out services, the County Council may treat expressions of interest for these two categories of services in different ways so as to manage and reduce the impact on the services and on resources and so as to meet any other legal obligations which may apply.
- 6.2. However, the County Council will operate a single set of time frames for all categories of services, whether in-house or contracted-out services.
- 6.3. Time frames for expressions of interest will be on an annual cycle. Dependent on the number and types of challenges received, it may be necessary to increase the number of cycles within a year. This annual cycle fits with the County Council’s existing planning and budget cycles, governance and decision-making time frames and reporting processes, and provides sufficient time to make a full assessment of all aspects of a challenge and the impact on the service, directorate and authority as a whole.

<b>Submission and assessment of Expressions of Interest</b>	<p>February – April: allowable window for submission of Expressions of Interest</p> <p>May – July: assessment of Expressions of interest</p> <p>September - October: Decision Report on Expressions of interest.</p>
<b>On accepting</b>	November - January: preparation of procurement

<b>an Expression of Interest</b>	documents and procurement plan February - December: procurement process* January - March: mobilisation, TUPE transfer, etc. April – contract commencement
*Procurement time frames will need to be flexible to some extent based on the value and complexity of the proposed contract.	

- 6.4. Wherever necessary, but at the sole discretion of the County Council, the time frames described above may be varied or waived including allowing for an expedited process for one or more expressions of interests and/or allowing for receipt and consideration of an expression of interest out of time. Such waivers will not constitute a general variation of the time frames set out in this policy.
- 6.5. Whether in respect of in-house services or contracted-out services, all relevant bodies wishing to express an interest as a right to challenge will be encouraged to consider the County Council’s commissioning intentions and plans as may be published from time to time and to the extent these impact on the services in which they are interested.
- 6.6. In respect of already contracted-out services the County Council will manage any expressions of interest and the subsequent procurement process having full regard to the term of such contracts (including any provisions for extension of those contractual arrangements).
- 6.7. A Decision Flowchart, showing the internal processes which the County Council has adopted for the time being, is set out in [Annex 2](#) to this Policy.

## 7. Other Considerations

- 7.1. All expressions of interests received (whether from internal/staff or external/communities) will be directed to the appropriate officer in Democratic Services to ensure a single point of coordination and appropriate record keeping. All final decisions made regarding expressions of interests will also be notified to the same officer for the same reason.
- 7.2. Appropriate Cabinet Member(s), and affected local Member(s) (if a community led challenge), will be informed and consulted throughout, and involved in the decision process for all expressions of interests received as follows:

Receipt of an EOI –	notified
Review & Consideration –	regular briefings and consultations, as may be necessary
Recommendation –	notified on recommendation proposed for Commissioning Board

Decision – consulted and directly involved in final decision-making. The decision will be taken by the responsible Commissioning Director and the relevant Cabinet Member portfolio holder; notification of final decision to affected local Member(s) if a community led challenge.

- 7.3. Where the County Council receives two or more expressions of interest for the same or overlapping parts of the same service in the same Expressions of Interest time frame, the County Council will consider each on its merit without reference to the other(s). The County Council may also, where appropriate, consider whether it is appropriate to consider two or more such overlapping expressions of interest together, subject to the agreement of the relevant bodies who expressed the interests to do so.
- 7.4. Nothing in this policy is intended to override or otherwise affect the requirements of relevant public procurement rules, the County Council's Standing Orders on Procurement & Contracts, or the County Council's constitutional decision-making procedures except to the extent that those documents, processes and procedures may be amended to accommodate reference to the Community Right to Challenge.
- 7.5. Arrangements for effecting amendments, if any, to the County Council's Standing Orders on Procurement & Contracts and the County Council's constitutional decision-making procedures will be undertaken separately.

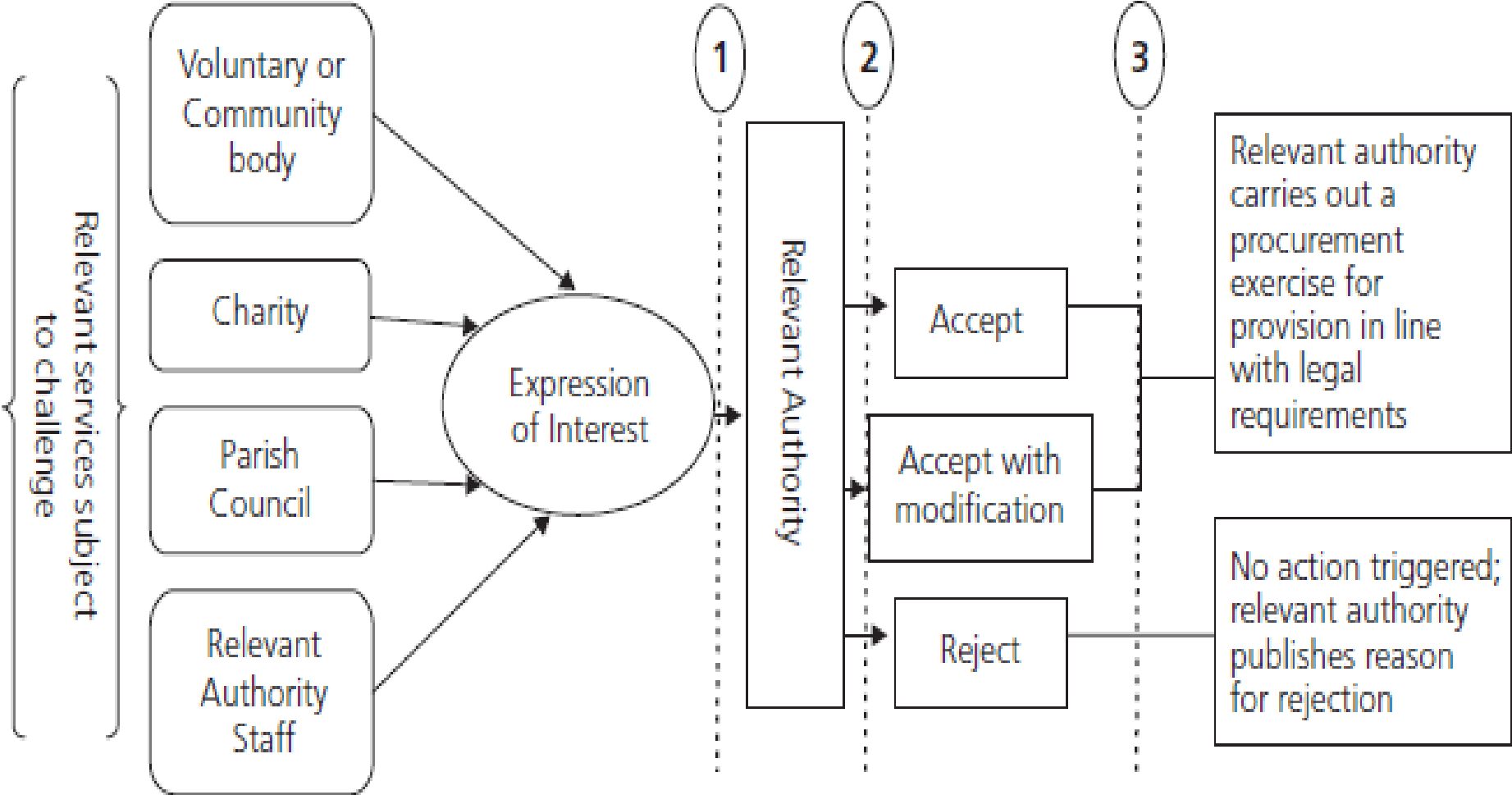
## **8. Where to find more information**

- 8.1. Forward Plan documents at:  
[http://www.westsussex.gov.uk/your\\_council/meetings\\_and\\_decision-making/forward\\_plan.aspx](http://www.westsussex.gov.uk/your_council/meetings_and_decision-making/forward_plan.aspx)
- 8.2. Standing Orders on Procurement & Contracts:  
<http://www2.westsussex.gov.uk/ds/constitution/part4-6.pdf>
- 8.3. Doing Business with the County Council  
[http://www.westsussex.gov.uk/doing\\_business/doing\\_business\\_with\\_us.aspx](http://www.westsussex.gov.uk/doing_business/doing_business_with_us.aspx)
- 8.4. WSCC Plans, Projects, Reports and Initiatives  
[West Sussex County Council: Plans, projects, reports and initiatives](#)
- 8.5. WSCC Strategies  
[West Sussex County Council: Strategies](#)
- 8.6. Active Communities Policy  
[https://www.westsussex.gov.uk/living/communities/active\\_communities/welcome\\_to\\_active\\_communities.aspx](https://www.westsussex.gov.uk/living/communities/active_communities/welcome_to_active_communities.aspx)
- 8.7. Staff Mutuals Policy  
[http://intranet.westsussex.gov.uk/policy\\_and\\_leadership/plans\\_policies\\_and\\_strategies/employee\\_led\\_mutuals.aspx](http://intranet.westsussex.gov.uk/policy_and_leadership/plans_policies_and_strategies/employee_led_mutuals.aspx)

#### 8.8. More information:

- [Cabinet Office Mutuels Support Service](#)
- [Co-operatives UK](#)
- [Social Enterprise UK](#)
- [Charity Commission](#)
- [LGA – New Models of Delivery for LG Workforce](#)
- [Community Right to Challenge | My Community Rights](#)

Annex 1 – DCLG Summary of CRtC Process





## Annex 2 - Decision & Information Flowchart

